

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86530906
LAW OFFICE ASSIGNED	LAW OFFICE 112
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86530906/large
LITERAL ELEMENT	ECHOSMITH
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
Applicant responds to the refusal in Class 9 with the accompanying exhibits demonstrating that the name is "promoted and recognized by others as the source of sound recordings". Namely, screenshots showing the Class 9 sound recording goods promoted and/or sold by MTV, Apple/iTunes, Best Buy, and Facebook. It is beyond dispute that the ECHOSMITH mark functions as a source identifier for the subject goods in these and other instances, and advancement to publication and registration on the Principal Register is therefore appropriate. Moreover, the examples of use submitted in response to this and the previous Office Action are at least as demonstrative of trademark use in connection with the subject goods as for countless other recording artists whose performing/recording names are registered on the Principal Register. In light of the foregoing and the evidence submitted to date, it is believed that the application has satisfied the requirements to be advanced to publication. Applicant respectfully requests that the refusal of registration be withdrawn and the application be thusly advanced.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
JPG FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\865\309\86530906\xml12\RFR0007.JPG
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ORIGINAL PDF FILE	evi_209136238242-20160606210636006093_._echo1.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\865\309\86530906\xml12\RFR0002.JPG
ORIGINAL PDF FILE	evi_209136238242-20160606210636006093_._echo2.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\865\309\86530906\xml12\RFR0003.JPG
ORIGINAL PDF FILE	evi_209136238242-20160606210636006093_._echo3.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\865\309\86530906\xml12\RFR0004.JPG
ORIGINAL PDF FILE	evi_209136238242-20160606210636006093_._echo4.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\865\309\86530906\xml12\RFR0005.JPG
ORIGINAL PDF FILE	evi_209136238242-20160606210636006093_._echo5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\865\309\86530906\xml12\RFR0006.JPG

DESCRIPTION OF EVIDENCE FILE	Screenshots of third-party sites and retailers promoting and offering for sale the sound recording goods in Class 9 under the subject mark ECHOSMITH in satisfaction of the requirement that the subject mark is promoted and recognized by others as the source of the subject goods, said others including Best Buy, Apple Music, MTV, and others.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/victor sapphire/
SIGNATORY'S NAME	Victor K. Sapphire
SIGNATORY'S POSITION	Attorney for Applicant
SIGNATORY'S PHONE NUMBER	4243656016
DATE SIGNED	06/06/2016
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Jun 06 21:34:03 EDT 2016
TEAS STAMP	USPTO/RFR-XXX.XXX.XXX.XXX -20160606213403381046-865 30906-55023464d3ce46f3e92 6b2a2afda9864d4f335c44c54 fb5d9793de4bc3b89c1d-N/A- N/A-20160606210636006093

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PTO Form 1960 (Rev 10/2011)
OMB No. 0651-0050 (Exp 07/31/2017)

Request for Reconsideration after Final Action

To the Commissioner for Trademarks:

Application serial no. **86530906** ECHOSMITH(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86530906/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Applicant responds to the refusal in Class 9 with the accompanying exhibits demonstrating that the name is "promoted and recognized by others as the source of sound recordings". Namely, screenshots showing the Class 9 sound recording goods promoted and/or sold by MTV, Apple/iTunes, Best Buy, and Facebook. It is beyond dispute that the ECHOSMITH mark functions as a source identifier for the subject goods in these and other instances, and advancement to publication and registration on the Principal Register is therefore appropriate. Moreover, the examples of use submitted in response to this and the previous Office Action are at least as demonstrative of trademark use in connection with the subject goods as for countless other recording artists whose performing/recording names are registered on the Principal Register. In light of the foregoing and the evidence submitted to date, it is believed that the application has satisfied the requirements to be advanced to publication. Applicant respectfully requests that the refusal of registration be withdrawn and the application be thusly advanced.

EVIDENCE

Evidence in the nature of Screenshots of third-party sites and retailers promoting and offering for sale the sound recording goods in Class 9 under the subject mark ECHOSMITH in satisfaction of the requirement that the subject mark is promoted and recognized by others as the source of the subject goods, said others including Best Buy, Apple Music, MTV, and others. has been attached.

JPG file(s):

[Evidence-1](#)

[Evidence-2](#)

Original PDF file:

[evi_209136238242-20160606210636006093_..echo1.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209136238242-20160606210636006093_..echo2.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209136238242-20160606210636006093_..echo3.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209136238242-20160606210636006093_..echo4.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209136238242-20160606210636006093_..echo5.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /victor sapphire/ Date: 06/06/2016

Signatory's Name: Victor K. Sapphire

Signatory's Position: Attorney for Applicant

Signatory's Phone Number: 4243656016

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86530906

Internet Transmission Date: Mon Jun 06 21:34:03 EDT 2016

TEAS Stamp: USPTO/RFR-XXX.XXX.XXX.XXX-20160606213403

381046-86530906-55023464d3ce46f3e926b2a2

afda9864d4f335c44c54fb5d9793de4bc3b89c1d

-N/A-N/A-20160606210636006093



Echosmith



Vic

Home



echosmith TALKING DREAMS

Featuring
"COOL KIDS," "BRIGHT" & "LET'S LOVE"
Available now



Echosmith ✓
Musician/Band

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Like

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Music

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echosmith TALKING DREAMS

Featuring
"COOL KIDS," "BRIGHT" & "LET'S LOVE"
Available now



0:00



🔊 Echosmith - Bright [OFFICIAL MUSIC VIDEO]

8M plays

▶ Echosmith - Cool Kids [Official Music Video]

17M plays

▶ Echosmith - Cool Kids (Acoustic) [Official Audio]

479K plays

▶ Echosmith - Talking Dreams [Official Music Video]

2M plays

▶ Echosmith - Come Together [Official Music Video]

4M plays



Echosmith



music

see all >



Bright (Big Morning Buzz Live)



Bright



Cool Kids (Live)



Cool Kids (VH1 Stop/Watch)



Cool Kids (Version 2)

interviews & exclusives

see all >



Echosmith Gives Shannon Coffey The Inside Scoop To Life On The



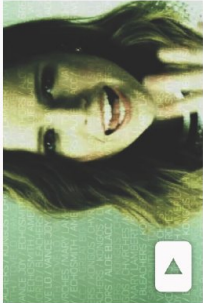
Echosmith Reveals 5 Things You Need To Know About Them



Echosmith Reveal They're Plot To Take Home A Kids Choice Award



Echosmith Redefines The Meaning Of Cool



Don't Miss Echosmith Perform Li

Echosmith

[View in iTunes](#)

To preview a song, mouse over the title and click Play. Open iTunes to buy and download music.

Formed:

2009 in Los Angeles, CA

Genre

[Alternative](#)

Years Active:

'00s, '10s

Influencers

[The Smiths](#)
[U2](#)
[Fleetwood Mac](#)
[Coldplay](#)
[The Killers](#)


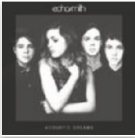




Contemporaries

[Kitten](#)
[Sheppard](#)
[Starling Glow](#)
[We Are The In Crowd](#)
[Lights](#)
[Florence + The Machine](#)
[Owl City](#)
[Paramore](#)
[Metric](#)
[Ellie Goulding](#)

Biography

Made up of four siblings, Echosmith is an emo and '80s dance-rock-influenced band from California. Formed in Los Angeles in 2009, Echosmith features lead singer Sydney Sierota, guitarist/vocalist Jamie Sierota, bassist/vocalist Noah Sierota, and drummer Graham Sierota. The band signed to Warner Bros. in 2012 and a year later, opened for Owl City on tour. Also in 2013, they released their debut full-length album, Talking Dreams. Thanks to the Top 15 [...More](#)

Top Albums

- 
Talking Dreams
[View In iTunes >](#)
- 
Acoustic Dreams...
[View In iTunes >](#)
- 
Cool Kids - Single
[View In iTunes >](#)
- 
Bright (Lost King...
[View In iTunes >](#)
- 
Cool Kids (RAC ...
[View In iTunes >](#)
- 
I Heard the Bells ...
[View In iTunes >](#)

Top Songs

	Name	Album	Time	Price	
1	Cool Kids	Talking Dreams	3:35	\$1.29	View In iTunes >
2	Bright	Talking Dreams	3:40	\$1.29	View In iTunes >
3	Tell Her You Love Her	Talking Dreams	4:06	\$1.29	View In iTunes >
4	Tell Her You Love Her (Aco...	Acoustic Dreams - EP	4:19	\$1.29	View In iTunes >
5	Let's Love	Talking Dreams	3:02	\$1.29	View In iTunes >
6	Bright (Lost Kings Remix)	Bright (Lost Kings Remix) - Sir	3:33	\$1.29	View In iTunes >
7	Come Together	Talking Dreams	4:42	\$1.29	View In iTunes >
8	Cool Kids (Acoustic)	Acoustic Dreams - EP	3:56	\$1.29	View In iTunes >
9	Surround You	Endless Love (Original Motion	3:28	\$1.29	View In iTunes >
10	Cool Kids (RAC Mix)	Cool Kids (RAC Mix) - Single	4:19	\$1.29	View In iTunes >
11	Terminal (Acoustic)	Acoustic Dreams - EP	5:40	\$1.29	View In iTunes >

MUSIC



TALKING DREAMS

OCT. 07, 2014

ITUNES

BUY CD

BUY VINYL

GOOGLE PLAY

SPOTIFY

1. Come Together
2. Let's Love
3. Cool Kids
4. March Into The Sun
5. Come With Me
6. Bright
7. Talking Dreams
8. Tell Her You Love Her
9. Ran Off In The Night
10. Nothing's Wrong
11. Safest Place
12. Surround You

COOL KIDS (RAC...



COOL KIDS (RAC...

DEC. 02, 2014

ITUNES

SPOTIFY

AMAZON

GOOGLE PLAY



SPOTIFY SESSIONS

FEB. 24, 2015

SPOTIFY

1. Nothing's Wrong
2. Bright
3. Cool Kids
4. Bizarre Love Triangles



I HEARD THE BELLS...

DEC. 03, 2013

ITUNES

SPOTIFY

1. I Heard The Bells On Christmas Day